terbutaline, isoetharine, orciprenaline, salbutamol, salmeterol, sodium cromoglycate, fluticasone, beclomethasone or any physiologically acceptable salt, solvate or ester of said medicament.

C4 cont

19. (Amended) A formulation as claimed in claim 18, where the medicament is ephedrine, adrenaline, fenoterol, formoterol, isoprenaline, metaproterenol, phenylephrine, phenylpropandamine, pirbuterol, reproterol, rimiterol terbutaline, isoetharine, orciprenaline, salbutamol, salmeterol, sodium cromoglycate, fluticasone, beclomethasone or any physiologically acceptable salt, solvate or ester of said compounds.

C5

REMARKS

The Office Action of August 30, 2001 has been received and carefully studied. Reconsideration is respectfully requested.

Applicant acknowledges with appreciation the "Withdrawal of Abandonment" and the vacating of the final rejection mailed on December 2, 1999.

The above amendments are intended to overcome the Examiner's objections under 35 U.S.C. § 112, second paragraph.

(I.) Claims 4, 12, and 19 have been amended to make clear that alternate language is intended. In other words, the various medicants are recited in the form "A, B, C or D." Under present practice, it is not believed that Markush

language is necessary. See, M.P.E.P. § 2173(h)II.

(II.) The term "similar molecule" has been deleted from claims 4 and 12. Accordingly, the questions raised by the Examiner with regard to this language are no longer pertinent.

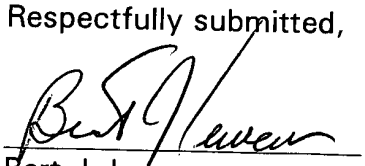
(III.) In each instance, the phrases "such mendicant" and "such formulation" have been changed to meet the Examiner's objection. Note particularly claims 1, 4, 12 and 19.

Turning now to the prior art, all of the claims have been rejected as unpatentable under 35 U.S.C. § 102(b) as anticipated by Purewal et al. It is clear from the Examiner's comments as well as the prior prosecution that the Examiner is of the opinion that the claims would patentable if the language "substantially free of surfactant" is changed to "free of surfactant." Accordingly, this change has been made to place the application in condition for allowance. The present language excludes the presence of surfactant from the Applicant's claims. Note particularly independent claims 1 and 10, as amended.

In light of the foregoing comments, it is believed that the claims as now presented are no longer anticipated under 35 U.S.C. § 102(b).

In light of the above amendments and discussion, it is respectfully submitted that the instant case is now in condition for allowance. A Notice to that effect would be greatly appreciated.

Respectfully submitted,



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EXPRESS MAIL CERTIFICATE

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I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

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Customer No.: 07278
PATENT TRADEMARK OFFICE

Docket No: **2617/0D276**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Fiona **MILLAR**

Serial No.: 08/999,752 Art Unit: 1619

Filed: June 4, 1997 Examiner: R. Bawa

For: **MEDICINAL AEROSOLS AND METHODS OF DELIVERY THEREOF**

MARKED-UP VERSION OF RESPONSE TO OFFICIAL ACTION

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231

February 28, 2002

Sir:

IN THE CLAIMS:

Please amend claims 1, 4, 10, 12 and 19 as follow:

1. (Amended) A medicinal aerosol formulation comprising a particulate medicament, a fluorocarbon propellant and 6% to 25% w/w of the total

a polar co-solvent, [such] said formulation being [substantially] free of

4. (Amended) A formulation as claimed in claim 3, where the medicament is ephedrine, adrenaline, fenoterol, formoterol, isoprenaline, metaproterenol, phenylephrine, phenylpropandamine, pirbuterol, reproterol, rimiterol terbutaline, isoetharine, orciprenaline, salbutamol, salmeterol, sodium cromoglycate, fluticasone, beclomethasone or [similar molecule and] any physiologically acceptable salt, solvate or ester of [such medicament] said medicaments.

10. (Amended) A canister suitable for delivering a pharmaceutical aerosol formulation, which comprises a container capable of withstanding the vapour pressure of the propellant used, which container is closed with a metering valve and contains a pharmaceutical aerosol formulation which comprises particulate medicament, a propellant, and 6% to 25% of a polar co-solvent, which is [substantially] free of surfactant, wherein the propellant comprises a fluorocarbon.

12. (Amended) A canister according to claim 10 where the medicament is ephedrine, adrenaline, fenoterol, formoterol, isoprenaline, metaproterenol, phenylephrine, phenylpropandamine, pirbuterol, reproterol, rimiterol terbutaline, isoetharine, orciprenaline, salbutamol, salmeterol, sodium cromoglycate,

fluticasone, beclomethasone or [similar molecule and] any physiologically acceptable salt, solvate or ester of [such] said medicament.

19. (Amended) A formulation as claimed in claim 18, where the medicament is ephedrine, adrenaline, fenoterol, formoterol, isoprenaline, metaproterenol, phenylephrine, phenylpropandamine, pirbuterol, reproterol, rimiterol terbutaline, isoetharine, orciprenaline, salbutamol, salmeterol, sodium cromoglycate, fluticasone, [or] beclomethasone [and] or any physiologically acceptable salt, solvate or ester of [such compound] said compounds.